

MINISTRY OF COMMERCE

NOTIFICATION

New Delhi, the 13th October. 1999

FINAL FINDINGS

Subject: Anti-Dumping investigations concerning import of PTFE from Russia.

21/1/98-DGAD.- Having regard to the Customs Tariff Act, 1975, as amended-in 1995 and the Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 thereof

A. PROCEDURE

1. The procedure described below has been followed subsequent to the preliminary findings:

- a. The Designated Authority. (hereinafter also referred to as the Authority) notified- Preliminary Findings vide notification dated 9/6/99 with regard to anti-dumping investigations concerning import of PTFE from Russia and. requested the interested parties to make their views known in writing within forty days from the date of its publication;
- b. The Authority forwarded a copy of the .preliminary . findings to the known interested parties, who were requested to furnish their views , if any, on the said findings within forty days from the date of the letter;
- c. The Authority also forwarded a copy of the preliminary findings to the Trade Representation of the Russian Federation in New-Delhi with a request that the exporters and other. interested parties may be advised to furnish their views on the said findings;
- d. The Authority provided an opportunity to all interested parties to present .their views orally on 28/7/99. All parties presenting views orally were requested to file written submissions of the views expressed orally. The parties were advised to collect copies of the views expressed by the opposing parties and offer rejoinders, if any. The petitioner and representatives of M/s Garg Associates were present at the oral hearing;
- e. The Authority made available the public file to all interested parties containing non-confidential version of all evidence . submitted and arguments made by various interested parties;

- f. M/s SPM International, who introduced themselves as an interested party after the announcement of the preliminary findings, raised certain arguments.
- g. The arguments raised by the petitioners and other interested parties have been appropriately dealt with in the preliminary findings and/or these findings;
- h. In accordance with Rule 16 supra, the essential facts/basis considered for these findings were disclosed to known interested parties and comments received on the same, have been duly considered in these findings;
- i. *** in this notification represents information furnished by an interested party on confidential basis and so considered by the Authority under the Rules.

B. PRODUCT UNDER CONSIDERATION

2. The product under consideration in the present investigation is Poly tetra fluoro ethylene (PTFE) in suspension and emulsion grades. PTFE is an engineering thermoplastic' with outstanding properties such as chemical inertness, low co-efficient of friction, heat resistance, excellent electrical insulation properties, non-toxic, non-inflammable and weathering resistance. Due to these characteristics PTFE finds many applications in chemical, mechanical, electrical and electronics industries.

PTFE is classified under Chapter 39 of the Customs Tariff Act, 1975, under tariff classification H. S. Code No. 3904.61. The classification is however indicative only and in no way binding upon the scope of the present investigations.

C. LIKE ARTICLES

A. Arguments by importers:-

1. Anti-dumping duty provides protection to an inefficient and only domestic manufacturer who has a long history of poor quality and neglect of customer needs. Efforts have been made by the user industry to make the petitioner improve the quality of the product being investigated. However the petitioner was not able to devote much attention to this aspect. The petitioner's claim is that they were unable to invest amounts in R&D due to unfair competition **from, -cheap** imports from Russia. However, even when they enjoyed protection behind high tariff walls, there was no serious R&D effort.
2. The ultimate users of user industry products, which are defence **undertakings, DRDO** labs, aero-space organisations and many other Government/semi-government/private units, would. have to pay higher prices for them. As it is, most Indian products are out-priced in the international arena due to high cost of manufacturing and scant attention to quality.

3. If injury to only one domestic industry were sought to be removed, all SSI manufacturers of PTFE in the country would be ruined. M/s Automat Industries, Ahmedabad, had. complained of the poor quality of PTFE supplied by the petitioner, which was not usable.

B. Arguments by petitioner:

1. PTFE is produced and sold in different grades. There is however no significant difference in terms of process, equipment and technology for the production of different grades of PTFE which is manufactured via the same chemical route the world over. Therefore PTFE manufactured by the domestic industry and in Russia are alike in their essential physical and technical characteristics.
2. The contention of M/s Garg Associates is unfounded with respect, to the quality of PTFE produced by HFL since the domestic Wire and Cable manufacturers have accepted HFL material against international competition for the last several years. The quantity of PTFE purchased from HFL for application identical to M/s Garg Associates are as under:-

HFL PTFE SALES	1996-97 MT	1997-98 MT	1998-99 MT
Wire and Cable	28	15	13
General	22	38	38
Total Sales	50	53	51
Total Demand	75	85	85

3. 15 MT of PTFE (HFL) sales have been made during the period September'97 to March'98 to customers having needs of identical products as manufactured by M/s Garg Associates. Such buyers include RJ Industrial Corporation, Ghaziabad Flopal, Tonk & Associates, Meerut PTFE Products, Trestar Electronics, T&F Insulation (P) Ltd., United Engineering and Jain Polymers.
4. PTFE demand in 1990 was only 400 MT while PTFE demand in India in 1999 is 800 MT. This has been due to unstinted *efforts by* HFL's Application Development Group for the growth of PTFE in India. Importers have only enjoyed the fruits of HFL's labour. Hence, the contention that the company has not invested in R&D is totally an immature statement.
5. All customers of PTFE who are manufacturing items similar to those of M/s Garg Associates have been using HFL material for the **past several years which** only goes to prove that the quality of the material is acceptable even in comparison to international supplies. The international market has accepted HFL PTFE grade used by M/s Garg Associates.

C. Authority's position:-

1. As stated in para 7 of the Preliminary Findings, PTFE is produced and sold in different grades. There is however no significant, difference in terms of process, equipment or technology for the production of different grades of PTFE which is manufactured via the same chemical route the world over. For obtaining different grades of PTFE; different kinds of finishing operations are employed which are mostly in batches. There're, *PTE* manufactured by the domestic industry and in the country subject to this investigation are alike in their essential physical and technical characteristics.
2. In order to establish that PTFE produced by the domestic industry is a like article to that exported from Russia, characteristics such as technical specifications, manufacturing process, functions and uses and tariff classification have been considered. Some interested parties have stressed on the quality differences between the imported PTFE and that manufactured by the petitioner. However, the basic manufacturing process, applications and overall use of the product are similar. There is a high degree of interchangeability. and consequently of competition between the imported product and that manufactured by the petitioner being the subject matter of this investigation.
3. There is no argument disputing that PTFE produced by the domestic industry in various grades, has characteristics closely resembling the imported material and is substitutable by PTFE imported from the subject country both commercially and technically. PTFE produced by the domestic industry has been treated as like article to the product exported from Russia, within the meaning of Rule 2(d).
4. The Authority confirms the preliminary findings on Like Article.

D. DOMESTIC INDUSTRY:-

3. The petition has been filed by M/s. Hindustan Fluorocarbons Ltd., Hyderabad, who is the only manufacturer of this product in India. The Ministry of Chemicals and Fertilisers has also confirmed the single-producer status of the petitioner. The petitioner therefore constitutes domestic industry and has the required standing to file the present petition under the Rules.

E. DUMPING:-

A. Arguments by Exporters/Importers:-

1. The HFL **representation requesting an increase in the anti-dumping duty to Rs 34/kg-** is sincerely opposed. If the petitioners wish to remain in business, they need to work hard to reduce the costs by at least 50%.

2. The period of investigation was April ' 97 to June 1998 (15 months). There has been considerable change in the conditions prevailing since. The rupee has devalued about 10% against the US dollar (Rs 39.42 to Rs 43.50), and import duty has gone up from 35% to 38.5%, not including SADD. This has already worked, to the benefit of the petitioner and they deserve no further relief.
3. Convena invoice showing Russian PTFE at USD 6/kg given by the petitioner shows incomplete transaction. This invoice was not carried to its logical conclusion, i.e, the buyer did not clear the consignment after filing the Bill of Entry at the Customs port. A copy of the letter from Ws Tonk & Associates (P) Ltd has been enclosed stating that the transaction did not mature at all against the sub-invoice.
4. A copy of offer from Priborlab, Russia to the respondent's German contact for PTFE F-4 DE is enclosed with the rejoinder. At DM 16.5 kg, it works out to USD 8.97 at the current exchange rate of DM 1.84=1USD. This goes to show that USD 9/kg is roughly the current international price for Russian PTFE grades usable for wires and cables. If anti-dumping duty of Rs 34/kg is to be added as suggested by the petitioner, the indigenous manufacturers of PIWC are going to be outpriced in the international market considering that Indian import duty is higher than in Germany and the shipping costs to India are also more.
5. SPM International and Sumitomo Corporation, Japan represent Kirovo, stated to be the larger of the two PTFE manufacturers in Russia. They have expressed interest in the investigations at this stage vide their letter dated 3'd August, 1999, to the Designated Authority. The address of their manufacturer is :- Kirov-Chepetsky Khimitchesky Kombinat, 613020 Kirov-Chepetsk, Kirovskaya obl per Pozamy, 7.
6. It is stated in the above-referred letter that both Kirovo and Halogen use the same grade numbers for their PTFE i.e., F-4 PN. Their sale price is USD 7.80/kg Cif Sea. The total annual requirement in India is about 800 MT out of which HFL produces about 400 MT. Russian imports is stated to be a maximum of 100 MT and the balance is sourced from other countries.
7. The investigation is against Halogen for dumping so why should Kirovo be penalised for this while their price is much higher. The sale of about 100 Mt, one fourth of HFL production, against requirement of over 800 MT should not be viewed as dumping.
8. If there is more than one **manufacturer in Russia and the Authority** is examining the case of one manufacturer only, it would not be fair to give a decision against entire Russian exports.

B. Arguments by petitioner.--

1. The anti-dumping amount of Rs 2990/MT is far too inadequate compared to the difference in the normal value and the export price, leave alone the difference between the domestic manufacturer's cost of production and the landed price of the material being dumped from Russia.
2. The domestic cost of production (i.e., suspension grade equivalent to F4) is Rs 725/kg and the landed price of the dumped material is anywhere between Rs 375/kg to Rs 487/kg. The landed Russian material price is inclusive of customs duty while Rs 725/kg is the petitioner's cost of production and not price.
3. Because of the unreasonable landed price as shown in the commercial invoices; HFL has been under pressure to match these prices incurring heavy losses. Operations have been sustained only in the national interest.
4. The offer of Russian material at USD 6/kg to Indian customers is enough to bring down the price in India. The fact remains that the imports from Russia into India is at less than the variable cost of even other international suppliers which is a great threat for the survival of the petitioner.
5. The offer of Priborlab, Russia to Germany may be USD 9/kg which cannot be a proof for international pricing. The petitioner has appealed to the Authority in this regard. Russia has offered material to India, which is in the range of USD 6/kg-6.75/kg. The quotations received by the Indian processors from Russian manufacturers have been submitted by the petitioner.
6. To help the petitioner survive and provide a fair level playing field to a domestic manufacturer the petitioner requests that the present situation be corrected by increase of anti-dumping duty to Rs 34/kg in the national interest.

C. Authority's Position:-

1. As stated in para 11 of the preliminary findings, it is observed that the various grades of PTFE do not display any significant difference in terms of costs and are in the same range. Since the granular grade involves drying and energy required for drying, the cost of this additional energy is more or less equal to the additional additives *cost* for the aqueous solution emulsion grades. The Authority has therefore, grouped all grades (described as product under consideration) for these investigations.
2. The offer from Proborlab, Russia, to Germany is a single instance that has been cited. The evidence does not establish the trend in international prices.
3. It is observed that Kirovo-Chepetsky hAs not directly or indirectly expressed either interest or willingness to participate or cooperate in these investigations although it is stated that they are the larger of the two manufacturers in Russia. Their buyers in India have *offered some* arguments and made certain claims at this stage of the investigations when only comments were invited by the Authority from interested parties. Art. 6.10.2, of the WTO Agreement states

that," In cases where the authorities have limited their examinationthey shall nevertheless determine an individual margin of dumping for any exporter or producer not initially selected who submits the necessary information in time for that information to be considered during the course of the investigation..." The petition filed by the domestic industry had given the name of only Halogen Joint Stock Company as a manufacturer/exporter in Russia. The Embassy of the subject country was requested to advise this exporter/producer as also other exporters/producers in Russia having interest in the export of the subject goods to India, to furnish information in the form and manner prescribed in the questionnaire forwarded by the Authority in the post-initiation stage of these investigations. In the absence of any response in the required manner to the Initiation Notification from any other manufacturer other than the said manufacturer cited in the petition, the Authority was constrained to limit its investigations to Ws JSC Halogen. The Authority also observes that although certain arguments have been offered by M/s S.P.M. International in response to the preliminary findings, these arguments are belated and are not in the form of a formal response to the questionnaire. Hence they are unacceptable at this penultimate stage of these investigations.

4. The average cif price of F-4PN manufactured by Kirovo and supplied to Ws SPM International is seen to be USD 8/kg (as evident from the copies of invoices that have been submitted by M/s SPM International). This is below the constructed cost of PTFE in Russia as determined by the Authority and is also below the cif export price determined from DGCIS data. The argument made by importers that Kirovo's price is higher, is therefore, incorrect.
5. Regarding the quantum of imports, Para 16 of the Preliminary Finding noted that the total imports of PTFE were 3,34,920 KG, 3,44,184 KG, and 4,75,528 KG during 1995-96, 1996-97 and 1997-98 (till June, 1998). Thus the increase was 2.76% in 1996-97 over 1995-96 and 38% in 1997-98 (till June, 1998) over 1996-97. The increase was 41.9% in 1997-98 over 1995-96. Thus the quantum of imports have gone up significantly during the period of investigation.

The quantum of imports from Russia was 24,130 KG, 7,000 Kg and 40,665 KG during 1995-96, 1996-97 and 1997-98 (till June, 1998). The quantum of imports have gone up by 68% in 1997-98 over 1995-96 and by 480% in 1997-98 over 1996-97. There was however a decline in imports in 1996-97 over that of 1995-96.

The quantum of imports from other countries was 3,10,790 KG, 3,37,194KG and 4,34,863 KG during 1995-96, 1996-97 and 1997-98 (till June, 1998) respectively. The share of Russia in total imports was 7.76%, 2.07% and 9.35% in 1995-96, 1996-97 and 1997-98, respectively. Russian share in imports has therefore been on the rise.

6. It is observed that the demand for PTFE was 746 MT, 705 MT and 797 MT in 95-96, 96-97 and 97-98 respectively. The share of imports in total demand was 44.7%, 48 and 59.5% in 95-96, 96-97 and 97-98 respectively. The share of the petitioner was 55.2%, 51.2% and 40% in 95-96, 96-97 and 97-98 respectively. Thus the share of imports have been rising in total demand whereas the share of Indian industry has been declining. The quantum of sales made by the petitioner declined from 412 Mt in 1995-96, to 361 Mt in 1996-97 to 321.88 during the period of investigation (April' 97 to June' 98).
7. As stated in para 12 of the Preliminary Findings, the Authority observes that the exporter from Russia has not responded to the questionnaire in the prescribed format and has not furnished information relating to normal value, export price, and dumping margin. In a letter to the Authority received beyond the specified time-limit, *they* have raised some general issues and termed the petitioners views on normal value in Russia as groundless and incorrect. It is observed by the Authority that they have not attempted to substantiate their own arguments by responding to the questionnaire. Instead, they have expressed their unwillingness to participate in this investigation. The Authority therefore considers the exporter to be non-cooperative and has proceeded on best available information.
8. The petitioner *has* claimed the constructed cost of production in Russia based on data collection and interaction with industries in the US and other international manufacturers. While the exporter has contested this-data, stating that it is only an approximation, they have not given any evidence of their normal value. In the circumstances the Authority has been constrained to determine the constructed cost based on the available information.
9. The export price has been determined on the basis of data published by DGCIS, after adjustments on account of local transportation, ocean freight and customs expenses. The dumping margin arrived at in the Preliminary Findings is based on the normal value and export price as stated in the said findings. This dumping margin is confirmed in these findings.

D. INJURY AND CAUSAL LINK:-

A. Petitioners submissions:-

- i. HFL started commercial production in 1988 when the demand of PTFE was only 150 MT as against a plant capacity of 500 TPA. HFL has invested considerably to increase application usage of PTFE in India. While these efforts were showing results, dumping of Russian material in the country during the last three years adversely affected the performance of HFL.

- ii. There has been drastic increase in imports of PTFE. HFL has been losing its market share at a fast pace and has been compelled to sell its material comparable to landed price of imported resin. By offering competitive prices, HFL has had to sell its resin at considerable loss.
- iii. The capacity utilization of HFL has been dropping on account of drop in sales.
- iv. It is to the credit of the petitioner that a PTFE market of 300MT/annum in 1991 has been enlarged by their marketing and application development efforts to the present market demand of 800MT. This has been the main reason for suppliers outside India to supply their material on Indian soil and take away the market from the petitioner.

B. Authority’s Position:-4. As observed by the Authority in Para 22 under heading J of the Preliminary Findings:-

(a) the quantum of imports from the subject country has increased in absolute terms and in relation to production and consumption in India; (b) the market share of the petitioner has gone down while that of imports has increased; (c) the capacity utilisation of the petitioner has gone down; (d) the petitioner has been forced to sell at prices below its fair selling price resulting in losses; (e) imports are undercutting the prices of the domestic industry; (f) the domestic industry is left with substantial closing stocks.

E. FINAL FINDINGS

5. The Authority after considering the foregoing, concludes that:

- a. PTFE originating in or exported from Russia has been exported to India below normal value, resulting in dumping;
- b. the domestic industry has suffered injury;
- c. injury has been caused by imports from the subject country.

6. The Authority recommends imposition of definitive Anti-dumping duty on all imports of PTFE falling under customs sub-heading no. 3904.61, of the customs Tariff Act as specified under the Para relating to product under consideration. originating in or exported from Russia.. The antidumping duty shall be the amount mentioned in col. 3 per MT.

Country	Name of the producer/exporter	Amount (Rs.)
Russia	JSC Halogen, Kirov-Chepetsky & all other producers/exporters	5200

7. Landed value of imports for the purpose shall be the assessable value as determined by Customs under the Customs Act, 1962 and all duties of customs except duties levied under Sections 3, 3A, 8B, 9 and 9A of the Customs Tariff Act, 1975.

8. Subject to the above, the Authority confirms the preliminary findings dated 9th June, 1999.

9. An appeal against this order shall lie before the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act, supra.

RATHI VINAY JHA,
Designated Authority